

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

GREG GRIFFIN, )  
)  
Appellant, )  
)  
v. ) C.A. No. N11A-04-003 WCC  
)  
UNEMPLOYMENT INSURANCE )  
APPEAL BOARD, )  
)  
Appellee. )

Submitted: February 20, 2012

Decided: May 31, 2012

On Appellant/Claimant's Appeal from the  
Unemployment Insurance Appeal Board – **REMANDED**

**ORDER**

Gregory Q. Griffin. 39 Boxelder Lane, Bear, DE 19701. *Pro se* Appellant.

Caroline Cross, Esquire and Katisha Fortune, Esquire. 820 N. French Street, 6th  
Floor, Wilmington, DE 19801. Attorneys for Appellee.

**CARPENTER, J.**

This 31<sup>st</sup> day of May, 2012, upon consideration of Claimant Greg Griffin's appeal from the Unemployment Insurance Appeal Board, it appears to the Court that:

1. Greg Griffin worked for Crystal Springs<sup>1</sup> for about one month before he fell ill.<sup>2</sup> On account of his illness Griffin eventually stopped working for Crystal Springs and applied for unemployment benefits. A Claims Deputy from the Unemployment Insurance Appeal Board denied Griffin's application for benefits on October 28, 2010, finding that Griffin had voluntarily left his job without good cause.<sup>3</sup>
2. Griffin appealed the Claims Deputy's decision and was granted a hearing before an Appeals Referee. Nobody from Crystal Springs appeared for the hearing. The Appeals Referee reversed the Claims Deputy's decision and awarded Griffin unemployment benefits because she found he had been terminated without just cause.<sup>4</sup>
3. Crystal Springs subsequently filed a letter objecting to some of the Referee's findings but not explaining why Crystal Springs was absent at the

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<sup>1</sup> The opinions issued throughout the administrative proceedings reference the employer as "Chrystal Springs." However, correspondence from the employer reflects that the company is Crystal Springs.

<sup>2</sup> R. 44.

<sup>3</sup> R. 6.

<sup>4</sup> R. 13.

hearing.<sup>5</sup> In spite of this, the Board remanded the case without any direction or guidance and the case was assigned to a different Appeals Referee without further explanation.<sup>6</sup>

4. Crystal Springs appeared for the second hearing before the new Appeals Referee, but Griffin did not. The Referee determined that Griffin was discharged from his work for just cause and denied Griffin benefits.<sup>7</sup>

However, instead of reviewing the previous Referee's decision in light of the evidence submitted by Crystal Springs, the Referee wrote a decision as if the previous Referee's decision had been vacated. In fact, the second Referee's decision notes that it was affirming and modifying the Claims Deputy's decision and does not even reference the previous Referee's decision.<sup>8</sup>

5. Griffin appealed the second Referee's decision to the Unemployment Insurance Appeal Board and the Board scheduled a hearing. Interestingly, the notice of the hearing represented that the hearing was on appeal from the

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<sup>5</sup> R. 31.

<sup>6</sup> R. 33.

<sup>7</sup> R. 38.

<sup>8</sup> See R. 38 ("The decision of the *claims deputy* is modified and affirmed.") (emphasis added).

first Referee's decision.<sup>9</sup> When neither Griffin nor Crystal Springs appeared on the date of the hearing, the Board dismissed the case.<sup>10</sup>

6. Griffin filed an appeal to the Board's decision to dismiss the case. The Board styled Griffin's submission as a motion to rehear the case.<sup>11</sup> The Board found no legal justifications for granting a rehearing, and accordingly, Griffin's second appeal was denied on April 6, 2011.<sup>12</sup> It is this decision that Griffin appeals to the Superior Court.
7. Procedurally, this case has been so mishandled that it is difficult for the Court to ensure that it has been fairly litigated or that a legally sufficient determination of the issues has been made. While the parties are partially at fault by their non-appearance at certain hearings, it appears the decision of the Referees are more related to who appeared at the hearing rather than a true review of the issues presented. It would be unfair to allow a decision to stand simply because the employer happened to appear last.<sup>13</sup> Therefore the Court is remanding the matter to the Board and ordering it to conduct another hearing, providing an opportunity for both parties to present any

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<sup>9</sup> R. 57.

<sup>10</sup> R. 62.

<sup>11</sup> R. 67-68. This is despite the fact that the Board's first hearing purportedly concerned the first Referee's decision.

<sup>12</sup> R. 68.

<sup>13</sup> Griffin asserts he did not receive notice of certain hearings, but because the Court is remanding the case, it will not specifically address this issue. The Board should take steps to ensure that both parties are aware of the next hearing and document the parties' receipt of that notice.

arguments relevant to the issues previously presented. The Board is not required to take any additional testimony but is obligated to consider the record created before both Appeals Referees. It is these records, together with the arguments presented at the new hearing, that the Board should use to make its determination. Because of the parties' previous conduct regarding their attendance, if either party fails to appear at the hearing before the Board, that party will be foreclosed from any further appeals of this matter.

IT IS SO ORDERED

/s/ William C. Carpenter, Jr.  
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Judge William C. Carpenter, Jr.